

Janet Napolitano, Governor
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October 31, 2007

Mr. Kerry Weems
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention CMS-2287-P
Mail Stop S3-14-22
7500 Security Boulevard
Baltimore, MD 21244

Dear Mr. Weems:

As Director of the Arizona Health Care Cost Containment System (AHCCCS), I am sharing my concerns about the proposed regulations regarding the elimination of Medicaid reimbursement for school-based health services and the elimination of transportation coverage, published at 72 Federal Register 51397 (September 7, 2007). AHCCCS is the state agency that administers Arizona's Medicaid program, which covers over one million members.

To begin with, it is critical to consider the value of Medicaid reimbursement for school-based health care. School districts play a critical role in ensuring that students receive necessary medical services, and in some cases, the only way some students get the services they need. Numerous studies show that having access to health care services reduces the risk that illness or injury will go untreated or create economic hardships for families.¹ Research also shows that children with health insurance and access to health care services are less likely to receive their care in the emergency room, and they do better in school.² There is no question that the lack in needed, as well as preventive medical care impacts a child's overall well-being, along with his or her performance in school. By cutting these payments to schools, students could be forced to remain at home rather than attending school. Or if they do attend school with untreated chronic health care problems, they will not be attentive learners, will frequently be absent, and will not achieve their fullest potential.

Currently, the Medicaid Administrative Claiming program reimburses contracted Local Education Agencies (LEA) for outreach and administrative activities. This program would be eliminated in its entirety if the proposed rules are implemented as published. The reimbursement to Arizona LEAs was approximately \$4 million during the last state fiscal year. In addition, the proposed rules would eliminate reimbursement for transportation from home to school and school to home for Medicaid-eligible services on school grounds that are deemed necessary through an Individualized Education Plan is rendered during the same day on school grounds, could no longer be claimed. In the last state fiscal year, Arizona LEAs received approximately \$7.7 million in reimbursement from transportation services. The majority of the type of transportation services currently covered in the Direct Service Claiming program in Arizona would be eliminated.

In reviewing the notice and proposed rule, it appears that CMS has significant concerns regarding accountability in the use of Medicaid funds. The notice asserts costs related to certain activities are "not

¹ Dubay, L., & Kenney, G. M., Health Care Access and Use Among Low-Income Children: Who Fares Best? *Health Affairs*, January/February 2001, vol. 20(1), pp. 112-21

² Children's Health Assessment Project, 2002 The Health of Arizona's School Children: Key finding of Two Surveys by Louis Harris and Associates, The Flinn Foundation, 1993.

necessary for the proper and efficient administration of the State plan, nor do they meet the definition of an optional transportation benefit.” 72 Fed. Reg. 51397, 51398. While I support ensuring the integrity of the Medicaid program, the solution is not to scrap the program altogether, removing billions of dollars from programs that coordinate care, particularly in the early identification of child health needs for Medicaid-eligible students. Rather, steps should be taken at the federal level to ensure school-based administrative claiming is conducted appropriately with limitations and guidelines set by the Centers for Medicare and Medicaid Services.

There is a long history of federal Medicaid policy whereby CMS has recognized the essential link between Medicaid, schools, and providing health care for low-income children with health care needs. In 1975, with the passage of the Education for All Handicapped Children Act (EAHCA; Public Law 94-142), followed by the Individuals with Disabilities Education Act (IDEA; Public Law 105-17) in 1997, Congress enabled the provision of specialized services for students with disabilities. In keeping with that objective, Congress also passed the Medicare Catastrophic Coverage Act of 1988 (MCCA; Public Law 100-360). This legislation works to assist schools by providing reimbursement for the delivery of some of the mandated medical IDEA services. With the passage of IDEA, Congress demonstrated it understood there would be a fiscal impact to states by the mandate. Congress agreed to provide additional funding to states to implement IDEA requirements. Most recently in 2004, when IDEA was reauthorized in Public Law 108-446, according to the Act, the purpose of IDEA was to ensure children with disabilities have a free and appropriate public education with an emphasis on special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living, and to ensure that the rights of children and their parents are protected. IDEA also intended to assist states, localities, educational services and federal agencies to provide for the education of all children with disabilities and to assess, and ensure the effectiveness of, efforts to educate children with disabilities. Specifically, section 611 of the Act provides that a state can receive up to 40% of the average per pupil expenditures. Unfortunately, since IDEA’s initial passage and reauthorization, Congress has failed to fully deliver on the initial promised funding. As a result, states and local districts have worked to meet the requirements of IDEA in spite of continuing federal funding shortfalls.

Furthermore, Medicaid is a federal/state partnership that gives states discretion in establishing service and program reimbursement methodologies consistent with program goals and that assures maintenance of effort within budget neutrality targets. However, such proposed regulatory cuts in payments to schools for providing healthcare undermine the State’s discretion and, as a result, threaten services that ensure that children with serious and chronic conditions can get the health care they need so they can go to school.

I urge you to reconsider the proposed changes to school-based Medicaid claiming and allow school districts to continue to claim administrative and transportation costs associated with providing health services to Medicaid-eligible students with special needs. Thank you for this opportunity to comment on the proposed regulation.

Sincerely,

Anthony D. Rodgers,
Director